

REMARKS

Applicants respectfully submit that the claims have been amended to more clearly point out the present invention, and that all the claims presently on file are in condition for allowance.

THE CLAIMS

CLAIM OBJECTIONS

Claims 1, 7, 12, 14, 17, 23, 28, 30, 33, and 39 were objected to for containing certain informalities. These informalities have now been addressed. Applicants respectfully submit that claims 1, 7, 14, 17, and 30 were not amended in accordance with the noted informalities, in order to preserve the proper antecedent bases of the elements recited in the claims.

CLAIM REJECTIONS UNDER 35 USC 112

Claims 1, 17, and 33 were rejected under 35 U.S.C. 112, second paragraph. The claims, as amended, are in compliance with 35 USC 112.

CLAIM REJECTIONS UNDER 35 USC 101

Claims 17-40 were rejected under 35 U.S.C. 101 on the ground that the claimed invention is directed to non-statutory subject matter. The claims as amended, and in particular claims 17 and 33 are in compliance with 35

USC 101, in that they recite tangible components and they produce a tangible output.

REJECTION UNDER 325 USC 102

Claims 1-40 are rejected under 35 U.S.C. 102(b) as being anticipated by Harada et al (U.S. 2003/0009681 A1), referred to as "Harada". Applicants respectfully submit that Harada does not disclose all the elements and limitations of the rejected claims. Consequently, the claims on file are not anticipated under 35 U.S.C. 102, and the allowance of these claims is earnestly solicited. In support of this position, Applicants submit the following arguments:

A. Legal Standard for Lack of Novelty (Anticipation)

The standard for lack of novelty, that is, for "anticipation," is one of strict identity. To anticipate a claim for a patent, a **single prior source must contain** all its essential elements, and the burden of proving such anticipation is on the party making such assertion of anticipation. Anticipation cannot be shown by combining more than one reference to show the elements of the claimed invention. The amount of newness and usefulness need only be minuscule to avoid a finding of lack of novelty.

The following are two court opinions in support of Applicants' position of non anticipation, with emphasis added for clarity purposes:

- "Anticipation under Section 102 can be found only if a reference shows **exactly** what is claimed; where there are **differences** between the reference disclosures and the claim, a rejection must be based on obviousness under Section 103." *Titanium Metals Corp. v. Banner*, 778 F.2d 775, 227 USPQ 773 (Fed. Cir. 1985).
- "**Absence** from a cited reference **of any element** of a claim of a patent negates anticipation of that claim by the reference." *Kloster Speedsteel AB v. Crucible Inc.*, 793 F.2d 1565, 230 USPQ 81 (Fed. Cir. 1986), on rehearing, 231 USPQ 160 (Fed. Cir. 1986).

B. Independent Claims 1, 17, and 33 in Light of Harada

Applicants will now apply the foregoing legal standard to representative claim 1, in favor of allowance of the claims on file in view of Harada.

Harada generally describes a server apparatus that encrypts content, based on a distribution key, and transmits the encrypted content to a PC via a network. The PC, to which a memory card is connected, outputs the received encrypted content to the memory card. The memory card decrypts the encrypted content using the distribution key, converts the data format of the decrypted content, encrypts the content using a medium unique key that is unique to the memory card, and records the resulting re-encrypted content internally. A playback apparatus decrypts the re-encrypted content using the medium unique key, and plays back the decrypted content.

However, Harada does not describe transmitting the encrypted title key, the media key block, and the media ID to a clearinghouse server

utilizing a title key decryption/encryption module, wherein the clearinghouse server does not pre-store the title key".

In support of the rejection, the Examiner indicated that Harada describes "transmitting the encrypted title key, the media key block and the media ID to a distribution server utilizing a title key (paragraph 10, lines 3-5; paragraph 11, lines 1-3, 5-8). Applicants respectfully disagree with this characterization of Harada.

More specifically, Applicants have reproduced below paragraphs 10 and 11 of Harada:

"[0010] (2) The computer **stores in advance the user unique key**. A recording medium for recording content in is inserted in the computer by the user. **The recording medium pre-stores a recording medium unique key** that is unique to the recording medium.

[0011] The computer, according to instructions from the user, decrypts the stored encrypted title key and encrypted usage condition data, using the user unique key, to temporarily generate a decrypted title key and decrypted usage condition data. Next, the computer securely reads the medium unique key from the recording medium, and encrypts the decrypted title key and decrypted usage condition data using the read medium unique key, to generate a re-encrypted title key and re-encrypted usage condition data, and records the encrypted content, the re-encrypted title key, and the re-encrypted usage condition data in the recording medium. After recording these in the recording medium, the computer deletes the temporarily generate decrypted title key and decrypted usage condition data." Emphasis added.

Applicants respectfully submit that the **computer described in paragraphs 10 and 11 of Harada pre-stores the keys**, whereas it is one aspect of the present invention to alleviate the clearinghouse server from

pre-storing the title keys. Though this feature of the present invention is amply explained in paragraphs [0013] - [0015] of the current specification, Applicants have amended representative claim 1 to emphasize this aspect of the invention.

Paragraphs [0013] through [0015] of the current specification have been reproduced below to clarify the advantages achieved by the feature recited in the representative claim 1:

"[0013] **The clear advantage of the present system is that a database is not required by a clearinghouse to store title keys for content.** Even if it has not seen a particular piece item of content before, the clearinghouse is able to decrypt the title key. The clearinghouse can then re-encrypt the title key in the media unique key specific to the physical media on which the content will be recorded. **Using the present system, only the processing of the title key is required to be secure and tamper-resistant.** Secure processing is well within the current art; however, databases storing title keys are targets for attacks and difficult to keep secure, especially when the clearing house must act on behalf of several different content owners who are competitors, each needing to store their own keys.

[0014] The present system provides a level of abstraction away from the actual encrypted content, eliminating interaction between the clearinghouse and the content repository that stores the content. Consequently, the clearinghouse is less complex than a full content repository and can be placed anywhere that is accessible by a media recording device such as a DVD player. The clearinghouse is not tied to a database or content repository location.

[0015] In addition, the clearinghouse server and the content repository server may be completely independent, allowing deployment of additional business models. For example, the content owners may operate the content servers while an electronic retail store may operate the clearinghouse." Emphasis added.

Consequently, claim 1 is not anticipated by Harada and the allowance of this claim and the claims dependent thereon. Independent claims 17 and 33 are allowable for containing a similar subject matter to that of claim 1. Therefore, claims 17 and 33 and the claims dependent thereon are also allowable.

CONCLUSION

All the claims presently on file in the present application are in condition for immediate allowance, and such action is respectfully requested. If it is felt for any reason that direct communication would serve to advance prosecution of this case to finality, the Examiner is invited to call the undersigned at the below-listed telephone number.

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Respectfully submitted,

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